EXHIBIT 7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)

LAUREN SEARLS	*	
	*	
Plaintiff	*	
	*	Case No.:
v.	*	
	*	1:14-CV-02983-CCB
JOHNS HOPKINS HOSPITAL	*	
	*	
Defendant	*	

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The videotape deposition of MARIA M. CVACH, DNP, RN, FAAN, taken on Friday, June 19th, 2015, commencing at 9:58 a.m., at the law offices of Brown, Goldstein & Levy, LLP, 120 East Baltimore Street, Suite 1700, Baltimore, Maryland 21202, before Sharon A. Beaty, Notary Public.

Reported by: Sharon A. Beaty, CSR

A Okay.

Q If you want a break at any time, just let us know, we're happy to accommodate you, okay?

A Okay.

Q Where are you currently employed?

A I'm currently employed at the Johns Hopkins Hospital.

Q And what do you do there?

A I am an assistant director of nursing and I do clinical standards.

Q And what is, what do you do as an assistant -- are those sort of two different pieces of one job or is that one --

A I have many different types of jobs, but to sum it up I do the policies and procedures for nursing and for our medical board. I also was assigned a project back in 2006 on alarm management and so I was given the responsibility with our biomedical engineering department of developing an alarm management plan for our new clinical buildings that we have opened up.

Q And what buildings are those?

A So our new buildings are the Zayed, Bloomberg and the Nelson buildings.

Q Hasn't Nelson been around for a while?

A Nelson was gutted and redone.

Q And day to day what do you do as assistant director of nursing and being in charge of clinical standards?

A So I do a variety of different things. I actually have an updated resume that, excuse me, that indicates the types of things that I do.

Q Is that --

A Excuse me.

Q That's fine. Indicate -- Exhibit 29 is the notice of today's deposition. Is your updated CV different from the one --

A Yes, it is.

Q Okay. That we have marked as Exhibit 30. Then why don't we mark that CV as Exhibit 32?

A I'm sorry, I'm having --

MR. ESPO: Do you need a break?

nursing, so any issues that come up related to the care of patients, I manage that. And as I've mentioned, I was assigned a project in 2006 that I've been doing since, it's on alarm management for the hospital.

Q When you say clinical standards of care, I think for nurses; is that correct?

A Correct, uh-huh.

Q What does that entail?

A The care of patients, how the policies, procedures and protocols -- I oversee the development of those for the care of patients.

Q Okay. Are those, would you describe those as standards for the, the way nurses --

A Practice.

Q -- do their, do their jobs?

A So standards of practice govern how a nurse practices, whether they're licensed to do things. I, my job is more the care of patients, so protocols for how to manage patients with tracheostomies or how to manage falls or pressure

ulcers, things like that.

Q They are -- I guess I'll muddle, muddle through in my own way. Are they, are they, do they direct how nurses do certain tasks?

A Yes.

Q Okay. And are they, do they implicate who, other than licensing, do, does your work on the standards of practice governing nurses deal with who is qualified to perform certain tasks?

A So I don't do standards of practice, I do standards of care. Standards of practice decides who is qualified and so that is not my primary job.

Q Okay. And when you say standards of practice, are those, are the standards of practice related to individual types of skills or are they according to the state of Maryland you need to be an RN to do X?

A Yeah. So again, my, my role, we have two different directors, assistant directors. My role as an assistant director of nursing clinical

standards is to look at how the job is done but not who does it.

Q Okay.

A The person who does standards of practice is a different assistant director of nursing and she would be responsible for what kind of licensure you need, who's qualified, whether or not the Board of Nursing allows you to do certain things, so I don't get into that.

Q Does the hospital have any -- well, strike that.

Within your sort of domain at the hospital, is there, are there standards or guidelines for whether individual nurses with a particular disability can perform certain functions?

A You know, I don't know. I have not looked for that, whether there is that. I'd have to look that up, I'm not sure.

Q Okay. Not something that you have come across in your --

A No. I don't -- yeah, I don't deal with that. I deal with the care of patients. Yeah, I haven't dealt with that.

Q I should have said at the beginning of the deposition, there's a temptation for both of us to start talking before the other one is finished. In ordinary conversation that's the way it happens.

A Yes.

Q Again, for the court reporter it's really hard to take down two people talking at a time, so I will try to wait for you and ask that you do the same and hopefully Mr. Fries will speak up if we're not doing a good job.

How long have you been the assistant director of nursing clinical standards?

A Since 2005.

Q Okay. And I know I have your CV, but can you briefly outline your educational history beginning with college?

A I graduated from Bloomsburg State College in 1981 with a Bachelor of Science in

Q The hospital, either by direction to the manager or the manager on his or her own initiative, could have somebody monitor that reporting station?

A I wasn't involved in those decisions.

Q I wasn't asking that. I was asking is it possible?

A The manager assumes accountability for how the unit is run.

Q I want to ask you some other questions, a little bit -- a few other questions about your background. Have you ever worked with a deaf nurse?

A Not with a deaf nurse, no.

Q Worked with a deaf physician?

A No.

Q Ever worked with anybody who's deaf?

A Worked with? I have hearing impaired but not completely deaf.

Q And what was the work relationship with this hard of hearing person?

Q Do you know, aside from individuals who you have worked with, do you know anybody who is deaf?

A Oh, yes.

Q About how many people?

A A handful.

Q And are they social friends?

A Some, I have a relative through marriage who is completely deaf and she has a sign language interpreter.

Q What do you mean she has a sign language interpreter?

A When, whenever, like at weddings or something like that there is a sign language interpreter.

Q Okay. Do you sign?

A No.

Q Does your spouse sign?

A No.

Q Did you know that there is currently a deaf nurse working at the University of Maryland

system?

A No, I did not. Only through reading some documents, that's the only way I knew it.

Q Okay. Have you ever supervised a deaf nurse?

A No.

Q Have you ever been offered as an expert in, in any litigation involving the ability of a deaf individual to function as a nurse?

A Just this, just this.

Q Just this case?

A Yes.

Q And what -- when were you asked to look into this case?

A I was asked in January of this year.

Q And what were you asked to do?

A I was asked to look at -- the unit had already been closed, Halsted 8 had already been closed, but I was asked to look at Halsted 8 from my background knowledge on that unit and whether or not a nurse who was deaf would be able to function

related to monitor alarms and any kind of alarms on that unit.

Q And what, if anything, were you told to assume about the nurse's -- what, if any, accommodations the nurse would be provided?

A I was not really given that information. I, all -- the only thing I remember being told is that it was a nurse who was completely deaf.

Q Okay. Who told you that?

A The attorney was John Gilman.

Q And were you given any -- over the course of your work in this case, were you provided any other information either orally or in writing?

A The only information I was provided, we had a, we met and we reviewed the unit, Halsted 8, we went -- we walked through it, it was already des-, you know, not completely destroyed but there was, it was not the same unit because a lot of things had been pulled out already, but we walked through that unit, we talked with the manager of the unit, and of course I knew the unit because I

Q When did you review those reports?

A Between the end of January and probably -- well, one of them I just received maybe two or three weeks ago.

Q Did you do any independent research in how or whether there are deaf nurses working in health care in the United States?

A No.

Q Do you have any knowledge of deaf nurses working, delivering patient care in the United States?

A No.

Q Do you have any knowledge in how deaf health care providers work with sign language interpreters?

A No, just of my own experience of somebody signing when I, when I'm lecturing occasionally there's a sign language interpreter, so I just have witnessed that but I don't have any direct experience.

Q Okay. And you've never spoken with a

person who is working as a dedicated sign language interpreter with a professional?

A No.

Q Do you know anything about the speed with which American Sign Language communication can be delivered?

A No.

Q Did you think it was important in your work in this matter to know how or if deaf professionals were working delivering patient care in hospitals?

A No, because I was being asked the specific thing about alarms and the amount of alarms, I wasn't specifically asked about interpreters and the speed of which they interpret.

Q What, when you say you were specifically asked about alarms specifically, what were you asked about alarms?

A I was asked about the unit itself and how many audible alarms a nurse would receive, a hearing nurse would receive if working on that

Q You said that you reviewed Dr. Pollard's report. You highlighted at page 6 of his report, I'm going to show it to you so you can read it. Can you just read the first highlighted sentence on that page?

A In reviewing these documents I could find no evidence of job functions that could not be performed by Ms. Searls or other deaf nurses if they were provided with reasonable accommodations per the ADA in Section 504.

Q Do you have the experience and the background to form an opinion as to whether with reasonable accommodations, say a, a dedicated trained sign language interpreter, whether Ms. Searls could have performed the nursing function on Halsted 8?

A I think the answer is that it would have been very difficult for Ms. Searls even with a sign language interpreter to perform functions related to telemetry monitoring, even with a sign language interpreter, because as I've mentioned before of

the amount of nonactionable and nuisance alarms that were occurring at that time.

Q I'm really asking you a different question. Let me ask it --

A Okay.

Q Try it a different way. What in your background, education and training or research for this case allows you to form an opinion to a reasonable degree of probability about what a deaf nurse is capable of doing?

A I don't have direct experience with a deaf nurse, all I have is experience with the amount of alarms that were occurring and the lack of equipment and the legacy equipment that was available in that unit that would I think have been difficult for a hearing nurse let alone a hearing impaired or a deaf nurse.

Q You not only have never worked with a deaf nurse, you didn't do any research on deaf nurses for this case?

A (Nodding head indicating yes.)

Q Correct?

A That's correct.

Q Is, is that -- at the very beginning of the deposition we talked about, I asked you about evidence-based medicine.

A Yes.

Q Is that evidence-based work in coming to your conclusion in this case?

A Is what evidence-based work?

Q Not doing any research on the ability of deaf nurses to work in other locations or doing a literature review.

A I was not asked about that. My, what I was asked to do was I was asked to look at the alarms and the equipment on that unit, so I did not see it as my role to look at deaf nurses and what they're capable of doing.

Q Let me turn to your report. I'm going to give you the marked, the one with the exhibit tag. If we could go all the way to the end of your report where it says summary?

A Yes.

Q I'll trade you here.

What -- so I want to look at the first, the first sentence, alarm management is a national patient safety goal and a hospital priority.

A Yes.

Q Okay. Sentinel events reported by the Joint Commission indicate that patients have died as a result of alarms being missed. What does sentinel mean in that sentence?

A Sentinel means that there have been deaths or very severe injuries reported as a result.

Q Okay. And those are alarms -- do you have any information that any of those sentinel events took place because an alarm was missed by a deaf nurse?

A I do not have that information.

Q Okay. So is your assumption those were alarms missed by hearing nurses?

A Correct.

Q Okay. And then in 2012, skipping a sentence, in 2012 nurses on this unit, that refers to Halsted 8, correct?

A Yes.

Q Had to rely on audible alarm signals to determine the level of alarm response that was required.

A Yes.

Q It was critical that the nurses on Halsted 8 be able to hear alarms at the nursing station or while walking in the hallway to determine the level of urgency required for the situation.

A Yes.

Q Now, that is an assumption on your part that it is actually the nurse who needs to hear it rather than a trained sign language interpreter, correct?

A Yes.

Q And you have no empirical data to suggest that a trained sign language interpreter

couldn't effectively communicate that information to a nurse?

A Well, I have empirical data to show that even a nurse has trouble interpreting those, but I don't have anything about a sign language interpreter.

Q You certainly have no empirical data that says that a sign language interpreter would have more difficulty than a nurse?

A I don't have anything to say they can or can't.

Q Okay. So your next sentence is a deaf nurse would not be able to respond quickly to these alarms.

A Yes.

Q That is based on the -- that's built on the assumption that there is no sign language interpreter to provide the information to the deaf nurse, correct?

A It's built on that assumption and also the fact that there were so many that it was even

about what the alarm is?

A On that particular unit there were no backup systems, it was very difficult, there were so many alarms and there were no backup and so a hearing nurse could make, could make a mistake or miss something, and so could one that is deaf.

Q Okay. So that sort of leaves them even?

A It was a bad unit, in my, in my opinion it was a bad unit because they didn't have the middleware and the backups available today.

Q But again, you've done no research as to whether it could have worked with a sign language interpreter?

A I have not done that research.

Q Okay. And then you say, your next sentence is the time it would take to have someone interpret for the deaf nurse could result in a delayed patient response.

A Yes.

Q Okay. First of all, how long would it take for a sign language interpreter to communicate

alarm in room 12?

A So I would imagine it would take less than five seconds.

Q You would imagine. You don't really know, do you?

A I don't know.

Q So that's another assumption?

A Yes.

Q And then -- so the fact that it could result in a patient injury, is that more reason -- more probable than not, it's going to more probably than not cause a patient injury?

A From, at least with fall alarms, the monitor, the fall monitor, you have to be in there immediately when you hear that one, because they are on the floor right away, so that one might, might be one where harm could occur even within seconds.

Q So, but you don't know how long it will take the, the interpreter to communicate the information to the nurse?

A I don't know but I know this: That on that unit they had no way to do it quickly because they weren't getting information on the phone to say fall alarm, room whatever. You had to rely on your hearing and then you had to look around and say well, where is it, and so the interpreter would have to say oh, I think I hear it coming from down the hall, I think it's that room, so she'd have to say that, in sign language she'd have to say I think it's coming from this room, because there was nothing to say where it was coming from, you relied on your sound to know where to go.

Q Okay. So but the interpreter doesn't have -- first of all, you don't know how long it would take to sign I think it's coming from room 12?

A Yeah. I don't know. This is what I would imagine that the message would be. I hear something, it's fall alarm, I think it's coming from room 12, and I have no idea how long that would take to sign.

Q You don't deliver medical care based on what you assume, do you?

A No.

Q Are you offering your expert opinions in this case based on what you assume?

A I'm offering my opinions on my knowledge about how that particular unit functions related to audible alarms.

Q The sentence we were just looking at ends with potential patient injury. Do you see that?

A Yes.

Q What -- how, how do you evaluate the degree of potential?

A The degree -- I'm not sure what you're asking.

Q Well, typically in litigation I see when I -- and you're probably familiar with this, the, the standard is is something more probable than not, and what I'm asking you, is it more probable than not that having a deaf nurse with a qualified

sign language interpreter would result in more patient injuries than a hearing nurse?

A Is -- and is the assumption that the deaf nurse has a sign language interpreter?

Q The assumption is that the deaf nurse has a qualified, dedicated sign language interpreter.

A I --

Q Are you able to say to a reasonable degree of probability that there would be more patient injuries?

A No.

Q Are you aware that Ms. Searls responds to codes in her present position?

A I, I read that in, in her -- in somebody's deposition.

Q Okay. Did you -- I'm looking at your last sentence in the summary. Additionally, a delay in the nurse hearing an overhead pager directions during a code situation could have resulted in a delayed response.

A Yes.

Q Did what you read in that deposition cause you to rethink the ability of a deaf nurse with an interpreter to function during a code?

A I have been in many many many codes, and I can tell you it's chaos, having been in those codes. And there's a lot of noise and people talking and you have to be very astute who you're listening to, and so I personally feel that it would be very difficult unless you know who the leader of that code is and who to pay attention to and what your assigned role is, I think it would be very difficult to participate in a code situation.

Q And what is the evidence of that with respect to a deaf nurse compared to a hearing nurse?

A So as long as the deaf nurse knew what their role was, what their role was in a code, because when a code happens people assume certain roles, they are either the medication nurse, they are the nurse who's doing CPR, they are the nurse

who's bagging the patient, they are the nurse who's documenting, so as long as you know what your assumed role is and you know who to listen to, then I think that it could be done. But if you don't know that information it's just -- you're not sure, people are barking orders and you're not sure who to listen to.

Q So in a typical code who, who leads?

A Until the medical resident gets there it's pretty much people are just doing what they think is the right thing to do. There is no leader, it's just somebody jumps on the chest and does CPR, somebody gets the defibrillator, somebody goes and gets the crash cart, somebody puts oxygen on, so people just assume their roles until the medical resident gets there.

Q Okay. So a deaf nurse could just assume her role?

A That's correct.

Q And once the medical resident is present everybody knows who's in charge?

A Well, many doctors come and we don't know who they are because they're not -- they're assigned for the day so you're not exactly sure who everybody is. There's an anesthesiologist who comes, there's a medical resident, there's a pastor, there's a respiratory therapist, so all of these people come and you hope that you know who they are, but they say, they usually come in and say I'm, I'm in charge, so that's how you would know.

Q Well, first of all, they know not to listen to the pastor first, right?

A Yes. Yes.

Q Okay. So we can leave the pastor out of it?

A Yes.

Q I mean if you're taking directions from the pastor by definition it doesn't matter anymore?

A That's right.

Q But if somebody comes in and says I'm the senior doctor, I'm in charge, again, a trained

interpreter will hear the words just as much as hearing nurses?

A Correct.

Q And then knows -- and then two things, one is can sign to a deaf nurse he's in charge?

A Correct.

Q And the second thing is she, or he, whoever the interpreter is, knows who to listen to so that he or she is relaying the correct instructions to the deaf nurse?

A Well, it's not one person though saying things, there's multiple people talking, so there's somebody in charge of putting a line in and there's the doctor who's telling you what meds to give and then there's the respiratory therapist and the anesthesiologist saying what they need for intubation, so there's a lot of people talking at the same time.

Q Okay. Do you have any reason to believe that what you read about Ms. Searls being able to participate in, I'm not sure what the right term

is, but the care of a patient during code, during a code is incorrect or inaccurate?

A I don't have any reason to believe it's incorrect.

Q Okay. So you don't, again, you don't have any evidence that having a deaf nurse with a dedicated sign language interpreter would in fact result in patient harm during a code?

A I don't have specific evidence on that, no.

Q Okay. May I have your copy of the various --

A This?

Q Not your report, the other materials.

A Oh, can I just say that I did forget to put the right date on my report, so it should be dated 2015, and not 2014. And what would you like, what would you like? This?

Q That's fine. That. Thank you.

(Documents tendered.)

Q Were you able to -- based on your

the unit and then shortly thereafter became the nurse manager.

Q Okay. Did you ask Ms. Rotman when you saw her at the sort of inspection of Halsted 8, did you ask Ms. Rotman anything about Ms. Searls' performance or abilities?

A No.

Q Are you familiar with Cardionics stethoscope that works with hearing aids?

A No, I'm not.

Q And, and I understand you may not have been asked to do this, but you didn't ask to go observe Ms. Searls working in her current location as part of your, your work on this case?

A I did not -- I was not asked and I did not witness that.

Q Didn't seek it out?

A Yes.

Q I'm going to give you that back.

(Documents tendered.)

Q Do you know Dr. McKee at all?